



AAFS 2017 Criminalistics Section
February 15, 2017



National Commission on Forensic Science (NCFS)

John M. Butler, PhD

*NIST Fellow & Special Assistant to the Director for Forensic Science
Vice-Chair, NCFS*



National Commission on Forensic Science

- Established in 2013 with an MOU between NIST and DOJ (MOU also enabled OSAC to start)
- NCFS is a Federal Advisory Committee to DOJ
- First meeting held February 2014
- To-date, **12 meetings** have been held
 - Meeting 12 was at NIJ (January 9-10, 2017)
- Focus is on policy issues
- Thus far, **43 documents** have been approved
 - 20 recommendations and 23 views of the Commission

February 3-4, 2014 was the first meeting of the **National Commission on Forensic Science**

40 Commissioners

32 voting and 8 ex-officio members

Selected from >300 applicants

Represent diverse backgrounds, extensive experience, and come **from 21 states**



- Professors of biochemistry, chemistry, pathology, physics, sociology, statistics, and law (including a National Medal of Science recipient)
- Crime laboratory directors
- Judges, prosecutors, and defense attorneys
- Sheriff, detective, coroner, medical examiner, victims' advocate, and defendants' rights advocate

Commission Activities

(operates on 2-year renewal terms)

- Announcement at AAFS 2013 meeting on February 21, 2013
- Commission charter originally filed on April 23, 2013; renewed on April 23, 2015
- Commission membership announced on January 10, 2014
- Meetings held thus far:

- Meeting 1 February 3 – 4, 2014
- Meeting 2 May 12 – 13, 2014
- Meeting 3 August 26 – 27, 2014
- Meeting 4 October 28 – 29, 2014
- Meeting 5 January 29 – 30, 2015

Term 1

- Meeting 6 April 30 – May 1, 2015
- Meeting 7 August 10 – 11, 2015
- Meeting 8 December 7 – 8, 2015
- Meeting 9 March 21 – 22, 2016
- Meeting 10 June 20 – 21, 2016
- Meeting 11 September 12 – 13, 2016
- Meeting 12 January 9 – 10, 2017

Term 2

- Future meetings planned:

- Meeting 13 April 10 – 11, 2017

**Future Terms are
contingent on DOJ
renewal; NCFS Term 2
expires April 23, 2017**

NCFS Meeting Materials Available

<http://www.justice.gov/ncfs/meeting-materials.html>

Meeting Summaries

pdf document

National Commission on Forensic Science

Meeting Summary

May 12-13, 2014

Office of Justice Programs
810 7th Street NW, Washington, DC

Speaker Slides (pdf files)

2nd National Commission on Forensic Science Webcast

National Commission on Forensic Science Meeting...



Webcast
(>9 hours of
archived video)

MEETING TWO

References

Listing of 22 references provided to Commissioners

Human Factors and Cognitive Bias in Forensic Science

Deborah Boehm-Davis, Dean, College of Humanities and Social Sciences and University Professor, Department of Psychology, George Mason University

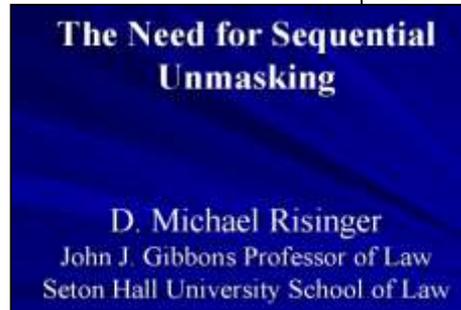
John Collins, President, Forensic Foundations Group

The Need for Sequential Unmasking

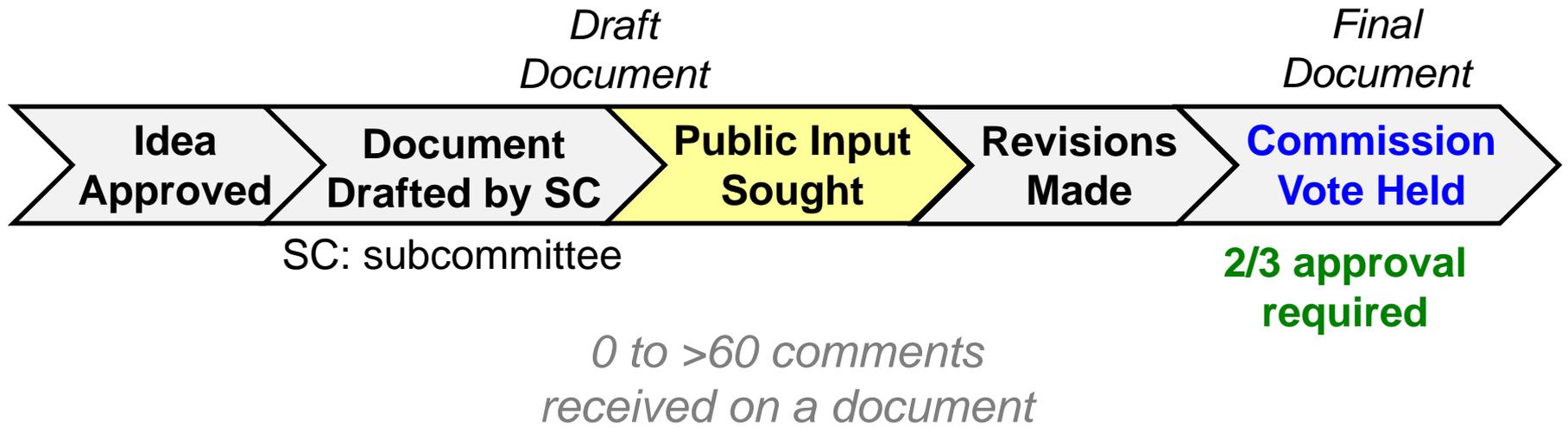
Michael Risinger, John J. Gibbons Professor of Law, Seton Hall University School of Law

David H. Kaye

Distinguished Professor of Law and Weiss Family Faculty Scholar, Penn State University, Dickinson School of Law



General Process for NCFS Document Development



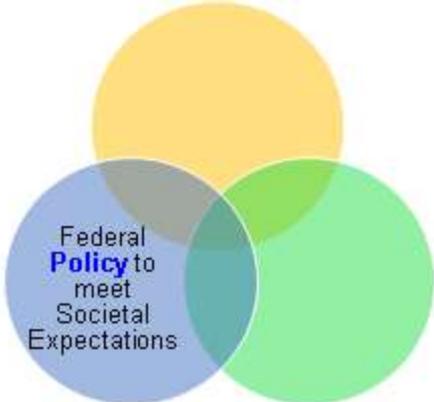
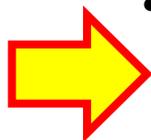
**43 total documents approved
through meeting #12 (Jan 2017)**

Some Key NCFS Recommendations

Complete set of **43 work products** available at <https://www.justice.gov/ncfs/work-products-adopted-commission>

Work Products are Developed in **Subcommittees**:

- **Accreditation and Proficiency Testing**
 - Universal Accreditation
- **Interim Solutions**
 - Transparency of Quality Management System Documents
 - National Code of Professional Responsibility
- **Scientific Inquiry and Research**
 - Technical Merit Evaluation of FS Methods & Practice
- **Medicolegal Death Investigation**
 - National Disaster Call Center
- **Reporting and Testimony**
 - Use of the Term “Reasonable Scientific Certainty”
- **Training on Science and Law**
 - Forensic Science Curriculum Development



Recommendations to the Attorney General Regarding **Use of the Term “Reasonable Scientific Certainty”** (NCFS Approved 3/22/16)

- **Recommendation #1:** The Attorney General should direct all attorneys appearing on behalf of the Department of Justice (a) to forego use of these phrases when presenting forensic discipline testimony unless directly required by judicial authority as a condition of admissibility for the witness’ opinion or conclusion, and (b) to assert the legal position that such terminology is not required and is indeed misleading.
- **Recommendation #2:** **The Attorney General should direct all forensic science service providers and forensic science medical providers employed by Department of Justice [FBI, DEA, and ATF Laboratories] not to use such language in reports or couch their testimony in such terms unless directed to do so by judicial authority.**
- **Recommendation #3:** The Attorney General should, in collaboration with NIST, urge the OSACs to develop appropriate language that may be used by experts when reporting or testifying about results or findings based on observations of evidence and data derived from evidence.

Attorney General Decision on NCFS Recommendation

- Department forensic laboratories [FBI, DEA, ATF] will review their policies and procedures to **ensure that forensic examiners are not using the expressions “reasonable scientific certainty” or “reasonable [forensic discipline] certainty” in their reports or testimony.** **Department prosecutors will abstain from use of these expressions** when presenting forensic reports or questioning forensic experts in court unless required by a judge or applicable law.

Attorney General Memo – September 6, 2016



Office of the Attorney General

Washington, D. C. 20530

September 6, 2016

MEMORANDUM FOR HEADS OF DEPARTMENT COMPONENTS

FROM:

THE ATTORNEY GENERAL

A handwritten signature in blue ink, reading "Loretta E. Lynch".

SUBJECT:

Recommendations of the National Commission on Forensic Science;
Announcement for NCFS Meeting Eleven

As part of the Department's ongoing coordination with the National Commission on Forensic Science (NCFS), I am responding today to several NCFS recommendations to advance and strengthen forensic science. These recommendations involve promoting professional responsibility among forensic practitioners, instituting best practices in quality management of forensic laboratories, and advancing the relationship between academic forensic research and practical implementation.

NIST Reception and Displays for NCFS Meeting 11

Photo credit: Rich Press (NIST)



Around 100 people gathered in the NIST cafeteria following the first day of the NCFS meeting to interact and learn more about NIST efforts in forensic science



NIST MML research biologist Mike Coble shows Commissioner Pam King results from a recent DNA mixture study



Commissioner Tom Albright (left) and others look on as NIST ITL researcher Elham Tabassi describes her fingerprint work

Thank you for your attention!



**National Commission on
Forensic Science (NCFS)**
www.justice.gov/ncfs

202-307-8885

Nelson.A.Santos@usdoj.gov

301-975-4049

John.Butler@nist.gov